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IOWA PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF FACTFINDING

between

Black Hawk County,

PUBLIC EMPLOYER

and

Public Professional and Maintenance

Employees, IUPAT Local 2003

EMPLOYEE ORGANIZATION

**REPORT OF THE FACT-FINDER
with
FACTFINDER'S RECOMMENDATIONS**

Iowa Public Employment Relations Board

CEO #77/Sector 2

Hearing Date: January 27, 2006

Dennis A. Krueger

Fact-finder

APPEARANCESS

For the Employer: Gary L. Ray, County Negotiator
Donald C. Hoskins, County Representative & Attorney
Brian Gruhn, County Representative & Attorney
June Watkins, Human Resources Director
Sherri Niles, Country View Administrator

For the Union: Joe Rasmussen, IUAPT Business Representative
Mitch Fitz, Bargaining Team Member
Sue Pittman, Bargaining Team Member
Marlene Honaker, Bargaining Team Member
George Cummings, Bargaining Team Member

BACKGROUND

Black Hawk County (hereinafter "County" or "Employer") is a public employer covered by the provisions of Chapter 20 of the Code of Iowa. The Public Professional and Maintenance Employees, IUPAT Local 2003, Unit III, (hereinafter "Local" or "Union") is an employee organization certified under the same statutory provision by the Iowa Public Employment Relations Board and representing job classifications of laundry worker, food service worker, food service worker trainee, cook, building cleaner trainee, building cleaner, building maintenance assistant, building maintenance mechanic, parking lot attendant, driver, lead laundry worker, lead building cleaner, and property maintenance assistant. Due to privatization and downsizing, this bargaining unit has diminished approximately one-third from 1994 to the current unit. A large majority of this unit works at the Country View Care Facility. The Employer and the Union are parties to a Collective Bargaining Agreement covering the duration from July 1, 2005, to June 30, 2006, which is part of this record and is Joint Exhibit #1. While bargaining collectively for almost three decades, there has been an increased frequency in recent years of the utilization of the impasse procedures of Chapter 20 including fact-finding and arbitration. This neutral comes to this impasse after fact-finding and interest arbitration were used settle the terms of the current collective agreement (Joint #1) and after the parties failed to reach any tentative agreements on the successor contract.

HEARING

This matter came for hearing at 10:00 AM on June 27, 2006, before the undersigned fact-finder who was appointed as impartial fact-finder pursuant to Section 20.19 and 20.21 of the Iowa Public Employment Relations Act and mutual agreement of the parties. Both

parties were afforded a complete opportunity to present written evidence and witnesses, to examine witnesses, to argue their respective positions, and to make closing statements. The oral hearing concluded at approximately 9:35 PM on January 27, 2006. The parties chose to not file written briefs, and the record on which this decision is based was closed at that time. The parties voluntarily agreed at the close of the hearing to waive any statutory timelines and the Employer agreed not to make any timeliness claim. The fact-finder indicated he would attempt to render his written recommendations as soon as possible and within the statutory 15 day time period from the hearing. The recommendation of the fact-finder is to be issued by placing the award in ordinary mail addressed to the parties as designated on the appearance sheet completed by the parties.

In rendering these findings and the recommendations, the fact-finder has given full consideration to all reliable information and evidence relevant to the numerous impasse issues and sub-items. The neutral has also reviewed the complete written record and testimony, objections, and arguments of the County and the Union as well as notes taken during the hearing. The fact-finder has specifically reviewed, considered, and used the criteria specified for arbitrator consideration in Section 20.22(9) of the Iowa Code. This is only logical given any arbitral review of these recommendations will utilize these criteria and the probability of such is relatively high. Specifically these criteria are the following:

- (a) Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
- (b) Comparison of wages, hours, and conditions of employment of the involved public employees with those of other public employees doing comparable

work, giving consideration to factors peculiar to the area and the classifications involved.

- (c) The interests and welfare of the public, the ability of the public employer to finance economic adjustments, and the effect of such adjustments on the normal standard of services.
- (d) The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

GENERAL DISCUSSION OF CRITERIA

a) **PAST CONTRACTS:** Both parties made reference to the history of negotiations within Black Hawk County and this bargaining unit. Exhibits S-2 and U-53 indicate that many years of voluntary settlements have now migrated into four hearings in the most recent three years with the last arbitrator only a few months ago referring to the "acrimonious" and "problematic" relationship of the parties. The Union made its point that over those years of bargaining many provisions were placed into the contracts as a trade for another wanted item – *a quid pro quo*. Different comparability groups, some internal and some external have been argued and used. Different problems have been brought forth and solved by locally crafted language. This neutral fully understands that collective agreements have been built over the years with many different language blocks; and that change or removal of some of those blocks could (or could not) have a major impact on the remainder of the collective agreement and existing relationships. Balancing that concept is the belief that comprehensive agreements are "living" documents that must be responsive to pressures and problems as they present themselves. This neutral has reviewed the realm of historical facts as appearing in the record and factored them into the structuring of these recommendations.

b) COMPARABILITY: Internal and external comparisons were utilized by both parties with arguments made relative to the strengths or weaknesses of each. This neutral has studied and utilized both comparisons while affording appropriate and relative weight to those units comprising each different group. Geography, increasing or decreasing populations and taxation bases, relative financial conditions, job classifications included, comprehensiveness and significance of the data, special conditions or work, and actual contract language are all factors impacting the relative weight. The credibility of the witnesses and the evidence must also be weighed.

As do at least some prior neutrals, this neutral notes that a pattern of bargaining is occurring around some issues such as wages, insurance, and perhaps other issues for undetermined reasons among the Black Hawk County bargaining units. There is a variance also noted to this pattern in contracts of different duration and concerning apparent language differences. Both parties also compare to external groups. In reviewing rationale, previous Arbitrator Graham discussed the academic viewpoint of pattern bargaining as a protection for parties against whipsawing. While generally agreeing with that concept, in this instant dispute both parties have used a shotgun to the current collective bargaining agreement which makes the determination of patterns less discernible. There is additionally the question regarding the extent of the pattern. In an extreme interpretation, the first settled contract would literally be the entire contract for the remaining seven bargaining units raising questions of fairness and equity and the legal representational status granted through recognition. When either party moves unilaterally toward permissive claims with PERB and promotes major contractual changes, it could become more a matter of a carrot and whip versus whipsawing. If the thesis is pattern bargaining promotes stability in industrial relations, and pattern

bargaining exists here in Black Hawk County, it seems not to be working. This neutral is more concerned about good faith negotiations dealing with the major issues facing the parties. In this dispute, cogent reasons seem to exist to mitigate or deviate from a purely pattern approach to the numerous issues before this neutral.

A concern of this neutral is using an "apples to apples" or true comparison when analyzing the data contained within the exhibits. Both parties did a good job of mixing comparability groups, factors, evidence and descriptors from issue to issue. As an example, while percentages are one measure of a settlement, this neutral also looks at the actual dollars to employees and the actual costs to the Employer as well as several other factors to compile a more accurate and detailed factual picture.

Peculiar to this bargaining unit, one must note that a large majority of employees work at Country View, which is a county facility for the mentally and physically challenged. Since the only other facility of its kind in Iowa is in Dubuque, this makes this bargaining unit and the attached work somewhat unique.

c) ABILITY TO PAY AND PUBLIC WELFARE: While the County did not argue a true inability to pay in this instant dispute, they did argue a "relative inability" and this neutral has reviewed carefully the budget and finance documents and compared them with historic settlements and financial conditions. Black Hawk County is clearly in the bottom quartile of comparable counties, although there is some evidence that they have turned the corner and finances are now marginally improving. Downsizing, privatization, prioritization, and reallocation have all occurred. While both parties mentioned future funding related to future gambling revenue, this neutral did not factor that into the

recommendations. The parties can bargain those funds when, and if, they appear. This neutral, in looking at the costing of the recommendations which follow, views them to be within the financial parameters of Black Hawk County. The public welfare is best served by balancing the cost of doing business and being competitive at the county level with providing its workforce with livable wages and benefits as citizens of this county and Iowa.

d) **POWER TO LEVY AND APPROPRIATE FUNDS:** While the County certainly has the power to levy taxes, this recommendation can easily be met without any specific tax increases to cover any associated costs for this bargaining unit. It is the responsibility of the County to prioritize and appropriate funds within its budget and this neutral is not going to interfere with that task.

STATEMENT OF THE IMPASSE ITEMS

No common or joint statement of the actual language issues was presented to this neutral. Given the numerous and complicated issues with varied representations and characterizations of the proposed changes, this neutral is incorporating the actual fact-finding positions of the Union and the County into this document. This allows the actual identification of the issues and prevents omission or potential misrepresentation. The "Union's Position for Fact-finding" is attached as Appendix A; and the "County's Fact-finding Position" is Appendix B. The impasse items not resolved in bargaining or mediation are the subject of this hearing and this fact-finder is obligated by rule 7.4 (6) to issue specific findings of fact and recommendations for the resolution of each impasse

item as required by Section 20.21 of the Iowa Code. Inasmuch as possible, the fact-finder is going to follow the order and flow of the current collective bargaining agreement, state the actual issues at bar, and then address each issue or sub-issue as they would appear in that document.

PERMISSIVE SUBJECTS AND NEGOTIABILITY DISPUTES

The County did present to the Fact-finder at the time of the hearing a copy of a "Petition for Resolution of Negotiability Dispute". The Employer's Petition (PERB Case #7220) is attached as Appendix C. PERB has been so notified and pursuant to PERB sub rule 621-6.3(2), it is PERB that will make such a ruling or determination on negotiability. As this separate dispute process continues with PERB, I am required to proceed with the issuance my recommendations. Since the parties have in place the current collective bargaining agreement (Joint #1), this neutral will not change any contract provision based solely on the claim or argument that the language may be permissive. Thus, in all those specific instances of a claim that language should be deleted with the ONLY reason cited being a claim of its permissive nature, my recommendation will be for current contract language to continue within the Agreement. Any language change must be based on a showing of evidence indicating such language is needed, comparable, and/or within the ability to fund.

GRIEVANCE PROCEDURES

Article 4, Grievance Procedure and Arbitration

UNION: Current Contract Language

COUNTY: Filed Negotiability Dispute

No evidence was presented by either party regarding this issue.

RECOMMENDATION: Subject to PERB ruling – UNION: Current Contract Language

Article 5, Mediation and Impasse Procedures

UNION: Current Contract Language

COUNTY: Filed Negotiability Dispute

No evidence was presented by either party regarding this issue.

RECOMMENDATION: Subject to PERB ruling – UNION: Current Contract Language

SENIORITY

Article 6, Section 2: Probationary Period

Union: Current Contract Language

County: Increase the probationary period from 90 calendar days to six (6) months with benefits available after 90 days.

The County's internal comparability (L-13) shows that all other units in Black Hawk County have a six month probationary period as well as Dubuque where the other county care facility in the state is located. Moreover, Unit 1 and Unit 2, the two other PPME represented units, voluntarily agreed to the County's proposed language in 2003-2004 with no specific problems cited by the Union. Country View Administrator Stiles provided convincing testimony and exhibits that clearly established that food service duties were complex enough in dealing with needs of the mental and physically disabled patients of the facility to require more than 90 days to learn thoroughly. Even one of the Union's bargaining team members supported some of this testimony. Under the County's language, benefits are not pushed back but start after 90 days as is current practice. (While the County did not clarify this language position in Article 16, this neutral will.) This means that this language change should then be revenue neutral. The County indicated

that this also provided new employees a longer time to learn and demonstrate adequate skills to maintain employment, thus also precluding termination of employment prior to the current 90 days.

The Union argues the current 90 days or a variation has been in the contract since the 1970's and it is not necessary to take six months to demonstrate adequate skills in food service, laundry, and building cleaning duties. While providing a longer probationary might create or cause some problems, not one specific instance was cited by the Union regarding all the other contracts. The Local also argued that the Employer is using fact-finding rather than bargaining at the table. This neutral does not view that happening with this issue as the County has carried its burden of comparability, cost, and need, which should have carried some weight between the parties at the local bargaining table.

RECOMMENDATION: County: Increase the probationary period from 90 calendar days to six (6) months with benefits available after 90 days. Correspondingly, Article 16, Section 1, shall be modified to read: "Permanent full-time employees and dependents shall be provided the Preferred Provider group health and dental insurance after the initial ninety (90) days of employment." Also correspondingly, any other contract provision regarding the term "benefits" will be available after 90 days of employment.

Article 6, Section 6, Loss of Seniority

Union: Current Contract Language

County: Filed Negotiability Dispute

No evidence was provided by either party regarding this issue.

RECOMMENDATION: Subject to PERB ruling – Union: Current Contract Language

LEAVES OF ABSENCE

In the leaves area, last year's fact-finder on pages 6-10 of his recommendations discusses some of same leave changes that the parties have brought back to the table for review by this fact-finder. That fact-finder recommended current contract language on all issues after his analysis of each the arguments. The arbitrator agreed with the fact-finder and cited insufficient evidence to warrant a change from the status quo. Absent new and different evidence in this record related to the same language issues, this neutral is not inclined to modify the previous findings. The task of this neutral is to then review this record to see if there exists NEW and DIFFERENT evidence that would cause one to come to different recommendations.

New Article: Union Leaves

Union: Add new language so Union members serving as stewards or bargaining team members receive paid leave for collective bargaining and grievance processing with the Employer.

County: Current Contract Language

The fact-finder last year found (based in part on then County L-9, now Union #44) there were no internal or external comparables to warrant a change and the arbiter agreed. In looking at Union Exhibits #43 through #52B in this record, there exists a question regarding the accuracy of the data on County L-9 from last year and County L-6 from this year. There is NEW data and actual language presented to this neutral by the Union regarding both internal and external comparables involving union leave. Those language exhibits establish a pattern of paid union leave.

At Tab 8, page 2 of the Union Exhibits, it is clear there has been a long-standing practice of paid release time for these activities when scheduled during work hours. When this neutral questioned the parties at hearing, he was told that the practice of paid release time continues and there was no specific instance cited of union representatives having difficulties or losing pay under this contract. Paid union leave then is not a new concept to Black Hawk County, or other Iowa counties. It is also not a new cost item in that this union leave practice has been in place here in Black Hawk County.

This neutral agrees with the cited language of Fact-finder Suntrup when he stated:

This issue "goes to the heart of fair representation rights of the employees and the benefits associated with those rights. ... The issue raised here is not as much about economics as it is about the recognition of the structure of relationships and the respectful recognition status of both parties to that relationship under the protection of law."

It is in both parties interest to deal with employment and labor concerns during the sunshine of the day rather than deferring it to a mutually agreeable time after the workday has ended. Because it is a cornerstone of equality at the negotiation and grievance processing tables, I am going to recommend this language be added at this time given need, continuation of past practice between the parties, and minimal, if any, added cost.

RECOMMENDATION: Subject to PERB ruling -- Union:

Employees designated as stewards or bargaining team members by the Union shall receive a paid leave of absence as Union Leave for the employees' hours of work necessary to attend joint collective bargaining negotiations, mediations, fact-findings, interest arbitrations, or steps of the grievance procedure with the Employer.

Article 7, Section 1, Leaves of Absence

Union: Current Contract Language

County: CHANGE to add "leaves of time mutually agreeable between the employee and the Department Head."

The previous Fact-finder in his report found the County did not present any evidence to "justify such a substantial restriction on the use of leave of absence" and "cited no evidence of any abuse of existing provisions." The arbitrator agreed. While the County cited that leaves could be granted for longer than a year with mutual agreement, this statement seemed not to be the reason behind such a change. No record was provided of the actual usage for this leave, any abuses encountered, or the actual costs or projected cost savings of such a proposal. I agree with the rationale of previous neutrals and I find no compelling rationale to add the County's change.

RECOMMENDATION: UNION; Current Contract Language

Article 7, Section 6, Leaves of Absence

Union: Current Contract Language

County: CHANGE to add employees "shall use accrued paid leave at the same time as the FMLA leave is used."

This change proposed by the Employer is a substantive one. It is clear this changes the manner in which paid leaves and the FMLA leave interact with one another and it certainly would have some impact on both earned benefits and costs. While finding this certainly has some cost and earned benefit impact, the record is void of actual FMLA usage, the number of maximum days which the Employer might designate, and the impact on other contract provisions. The bargaining history indicted this language has

been here a while and that it went into the contract under a voluntary agreement between the parties.

The Fact-finder one year ago indicated that there has been no demonstration of any justification for this change. The Fact-finder looked at the comparability argument raised that other PPME Units have such a provision and determined that different units have different interests, and by virtue of having a separate bargaining unit have the right to negotiate their contract. The arbitrator agreed. Given the record before me, I recommend that current contract continue.

RECOMMENDATION: Union; Current Contract Language

HOURS OF WORK

Prior to discussion of specific proposals within the hours and overtime areas, this neutral must note that the record surrounding these issues reads like a very bad novel. Though some roots go back to the mid-90's and cutting hours and furloughing employees, recent decisions by both parties to go to fact-finding, arbitration, and PERB with negotiability disputes have currently ended in creating havoc with existing contract language and the relationship of the parties. The focus of quality bargaining at the local level has now been relegated to others. As stated earlier, contracts have foundations and building blocks from past practices, comparables, and previous trade-offs. In this instant dispute, several blocks or chunks of the foundation have been removed by the parties either purposefully or by accident. Now this Fact-finder is being asked to put all those pieces back or, in the alternative, re-create or patch the foundation. A much better tact for the parties might have been to identify actual problems or weaknesses, prioritize those in order of importance, set about to honestly solve those problems, and then use neutrals for the

true purpose of weighing evidence and analyzing data on a few tough, but very real, issues of disagreement. Rather this neutral is relegated to contractual triage.

Article 9, Hours of Work and Overtime

Union: Change title of Section 1 to read, Work Week, and combine with Section 7.

"The normal work week for a full-time employee shall be thirty-two hours or more with all benefits. The normal work week for a part-time employee shall be less than thirty-two hours with pro-rated vacation and insurance benefits. Part-time employees working less than fifteen hours per week receive no benefits. The work week shall be from 12:01 a.m. Sunday to 12:00 midnight Saturday."

County: Current Contract Language

The Fact-finder last year found that "not one internal or external comparability group measures full time employment with a thirty-two hour standard" and denied it based on "cost implications and the lack of any support". The Employer indicated that this was not an issue presented to the Arbitrator last year. This neutral also differentiates between a 32-hour eligibility provision in an insurance contract and a 32-hour work week for employees. The issue is back again and with as little merit this year as it possessed last year. While there may indeed be some issues or problems the Union needs to address, the change to a 32-hour work week flies in the face of reason.

RECOMMENDATION: County: Current Contract Language

Article 9, Section 3, Shift Differential

Union: Current Contract Language

County: ADD New Paragraph: "An employee who works their shift or another shift due to voluntary or involuntary overtime shall be paid the appropriate shift

differential for each shift that qualifies for shift differential payment as defined in this article. Shift differential shall only be paid on straight time and overtime hours actually worked. Paid leave time shall not be subject to shift differential."

This language impacts at least three other contract areas - paid leaves, overtime, and straight time. Thus, a change here will reverberate through other contract bargains and benefits. Shift differential has always been included in the payment of paid leaves so as not to penalize an employee for using a leave day. The Union in its cost impact of this item shows it to be less than 0.2% assuming vacation, casual days, holidays, funeral days, and sick leave. (Union Tab #4, page 2) No specific problems were cited generating need for this change by the County.

RECOMMENDATION: Union; Current Contract Language

OVERTIME

Article 9, Section 6, Overtime

Union: Current Contract Language

County: CHANGE to "in excess of forty (40) hours per week" and "Any paid leave including sick leave shall not count toward calculating overtime hours." "Overtime shall not be paid more than once for the same hours worked. The work week shall be from 12:01 a.m. Sunday to 12:00 midnight Saturday. Employees required to work overtime shall be notified at least twenty-four (24) hours in advance of the scheduled work, except in case of emergency."

This Employer's proposal changes the eligibility requirements that have been in existence since 1984, while repeating some language that already exists in the contract. The actual impact regarding the number of employees impacted and costs are not in the record. Comparables indicate varied language in varied contracts and provide no

positive direction toward solution. While placed voluntarily into the contract, there was also no mention of the manner in which this provision was placed in the agreement and if there were any trades for its inclusion. The County and the Union did reach agreement on this concept and have a practice. Now seemingly the County wishes not to continue that agreement. The question remains, is there need, comparability, and cost that would justify changing this practice? The answer for this neutral is no.

RECOMMENDATION: Union; Current Contract Language

Article 9, Section 6, Overtime

Union: ADD to the third paragraph of Section 6 the following:

"Any overtime shall first be offered as voluntary overtime to employees in that job classification on a last worked-last selected basis. If there are an insufficient number of volunteers, the Employer shall select staff for involuntary overtime on a rotational basis beginning with the least senior employee of the effected shift."

County: Current Contract Language

In advocating this language change, the Union did not cite a specific problem or employees harmed by the current system in use, although it argued it was regaining the past practice from 1995. Administrator Niles did testify that such a distribution system would create more work and more turmoil at a time when the current system seemed to be working with minimal or no problems. Neutrals will attempt to remedy or solve problems or difficult situations, however, advocates must bring instances and evidence of the actual problem or harm caused with possible or potential solutions. That did not happen with this issue.

RECOMMENDATION: County; Current Contract Language

Article 9, Section 7

Union: REPLACE Section 7, Work Week Defined with lengthy proposal defining specific hours for each job classification, paid or unpaid lunches, and workdays. (See Appendix A for actual language.)

County: Current Contract Language

Certainly this contractual provisions dealing with hours, workweek, and overtime are a very important area for both the employees and the County. Perhaps important enough that both parties should have spent more time on previous language and practices, PERB negotiability rulings, actual problems and specific needs. The previous Fact-finder spent many paragraphs in his recommendations discussing some of the issues raised and impact on the employees and Black Hawk County regarding this area. The arbitrator was vexed and discussed "the stripping of the contract which ironically was initiated by the Union in its petition." He goes on to state, *"Moreover, the arbitrator finds the fact-finding recommendation difficult to implement, and it is unclear how to establish a set of rules that give consistency and flexibility to the Employer and its employees. ... while this causes difficulties, it should be noted that the Employer has indicated an assurance that there will not be a problem, which was another reason the Fact-finder ruled differently."* The Arbitrator then proceeded to rule per the Employer position.

In reviewing this record, the Union's position has remained congruent with last year's position. The Union presented evidence that other contracts had some or similar language, however, none were as lengthy as its proposal. This neutral listened carefully for specific problems or concerns, difficulties, or employees harmed. Given at least a few months under this different and current language, the historic practice in the workplace seems not to have changed much and no specific problems were brought forward. While

simpler mandatory language could be constructed to reflect the current happenings in this Unit, this neutral agrees with last year's arbiter that given this record it is unclear how to suggest or recommend a set of rules that meet the needs of both parties. I would rather see the parties who have more knowledge and history in this area have meaningful negotiations around the intricate workings of this language. This neutral does have some reservations yet around potential problems, however, when and if they occur, it will be a fact situation allowing the Union to carry its burden of proof for change. I thus recommend the current language.

RECOMMENDATION: Current Contract Language

Article 9. Section 6. Overtime

Union: Increase Standby and On-Call Time pager compensation from \$50 to \$75.

County: Current Contract Language

The Union advances this proposal based on loss of value since 1999 when it was placed in this contract and the comparable of Black Hawk County Secondary Roads receiving \$125 per week. The Union does not state when the \$125 payment went into the contract and if it has been changed. The Union states it has raised this issue for a number of years and the County states this issue was not taken to any impasse hearing last year. Exhibit L-8 is vague and forgets the Secondary Road Workers. Facts related to the increased or decreased usage, work performed, number of times called, comparisons with road workers or other jobs that have call-in or pager provisions are all missing. There has been insufficient showing of evidence to warrant any increase at this time.

RECOMMENDATION: County; Current Contract Language

SICK LEAVE

Article 10, Sick Leave, Section 3, Procedures of Sick Leave Usage

Union: Current Contract Language

County: Filed Negotiability Dispute

No evidence was presented by either party.

RECOMMENDATION: Union; Current Contract Language

Article 10, Sick Leave, Section 6, Conversion

Union: Current Contract Language

County: Filed Negotiability Dispute

No evidence was presented by either party.

RECOMMENDATION: Union; Current Contract Language

Article 10, Sick Leave, Section 7, Sick Leave Bonus

Union: Current Contract Language

County: Filed Negotiability Dispute

No evidence was presented by either party.

RECOMMENDATION: Union; Current Contract Language

Article 10, Sick Leave, Section 9, Date of Employment

Union: Current Contract Language

County: Change "For the purpose of this chapter, an employee" to 'An employee...'

Both parties indicate this is a grammar change that has made its way to fact-finding. This neutral views this issue to be "de minimus" in nature and indicative of the parties'

negotiation problems. This neutral recommends the parties deal with grammar issues at the local level rather than waste time and money at this level.

RECOMMENDATION: Union; Current Contract Language

TRANSFERS

Article 13, Transfers

UNION: ADD new Section 3, Temporary Transfer Pay:

An employee temporarily transferred to a lower pay grade shall continue to receive their normal rate of pay. An employee temporarily transferred to perform the duties of a higher pay grade job classification shall receive the higher rate of pay for all hours of work performed in the higher job classification.

COUNTY: Current Contract Language

The Union at Tab #7 cited a problem where employees are being worked outside their proper classification and pay grade with some receiving added pay and some not. The Employer paid a building cleaner the increase in wages and shift differential to work as a cook at Country View. On the other hand, Country View has been using a property maintenance assistant (pay grade 7) to work as a building mechanic (pay grade 14) with no extra compensation. No mention was made of the duration involved in the work changes leaving the degree of this problem somewhat open. The County in its closing argument indicated there was no problem and that the County had paid the difference. It also warned about costs of such a proposal (which would be neutral if they were already doing it). In this instance and based on a cited problem in the record, I am going to recommend new language providing a bit of latitude but grounded in similar language of other Black Hawk County Contracts (PPME Unit 1) which the parties should understand.

RECOMMENDATION: NEW LANGUAGE

An employee temporarily transferred to a higher classification for more than thirty (30) calendar days shall receive the pay rate applicable to that classification beginning the thirty-first (31st) calendar day. An employee transferred to a lower classification shall continue to receive his normal rate of pay. If the Employer rotates more than one employee in the position, and the total number of days the position has been filled by temporary assignment exceeds thirty (30) days, all employees working from the first day shall receive the higher rate.

JOB CLASSIFICATIONS AND WAGES

Article 14. Job Classifications and Straight-Time Hourly Wage Rates

UNION: CHANGE Section 2, Hourly Wage Rates, to read:

Reference is made here to Exhibit B, Labor and Trades Salary Schedule for the 2007 fiscal year which shall become effective on July 1, 2006, and shall remain in effect during the term of this agreement. The 2007 fiscal year schedule shall be an increase of six (6%) over the previous year's fiscal year salary schedule. In addition, employees eligible to receive an in-grade pay increment shall do so pursuant to Article 26 of this Agreement.

COUNTY: In-grade pay increments plus across the board wage increase of two per cent (2%) on Salary Schedule B.

NOTE: Both parties do agree that employees eligible to receive an in-grade pay increment shall do so pursuant to Article 26 of this Agreement.

The Union has a 6% across-the-board (ATB) wage adjustment on the table saying it has to protect itself from major changes possible in the insurance area. The County has a 2% ATB wage adjustment with major changes in the insurance article. The intertwining and seesaw effect of the salary and insurance articles is evident. This neutral has not

overlooked this relationship and the cost and the budgetary impact related to settlement of this dispute. That statement applies equally to the County and to the employees that make up the bargaining unit. While there is an increased cost associated with this settlement, there is also the cost of doing business in the arena of county governments. The neutral also realizes whether balancing a personal budget or the budget of Black Hawk County, the choices are not always easy. All attempts have made to research and structure this total recommendation to be within the parameters of acceptability for both parties. Although certainly there will be specific components that each side will not embrace, they must look at the total package in the insurance and wages articles, and perhaps other contract areas.

Both sides provided several different comparability groups for consideration and argument. All were reviewed but each group had a different relative weight when influencing this recommendation. Some, but not all, included those listed below:

- PERB County Settlements (U-59p2) 3.7% = Average to Date
- Social Security Adjustments (U-60) 4.1 %
- CPI - 2005 (U-58) 3.4%
- CPI - 2006 (S-6) 3.83%
- Union Comp Group (U-55w/o Polk) 3.3%
- Historic Unit Average (S-2 and U-53) 2.75% = 8 yr average
- County Comp Group (S-4) 2.71%
- County – All Known Settlements (S-5) 2.69%
- Historic Unit Range (S-2 and U-53) High = 4%; Low = 2%
- Arbitration Awards (2) 2.5% and 2.25%

If any pattern exists, neither party seemed to have that as their current position.

Last year's Fact-finder, affirmed by the Arbitrator, noted some of the same conclusions as this neutral found in this case. *"Black Hawk County, while not in desperate condition, and not asserting an inability to pay, does not have funds which would warrant a substantial wage increase this year. ... There is insufficient evidence to find that Black Hawk County should increase wages in this Unit to levels sought by the Union. ... Internal comparable increases during recent years fail to support either Offer. .. These (historical) figures show that..., there have not been any wage increases... as great as that sought by the Union. As the Union pointed out, percentages do not have the same significance as cents per hour increases and do increase the spread between lower and more highly compensated employees. Among Black Hawk County Units, this Maintenance Unit ranks last with an average wage..."*

This current neutral looked at Dubuque County with a similar facility to Country View and to other Counties closer in size and finances to Black Hawk County. Polk is too large and too distant to use. Counties that are in financially similar conditions and/or are in a somewhat the same geographic proximity carry the greatest weight.

Concern and weight is given by this neutral to the fact that this Unit has the lowest average salary and is one of the smaller bargaining units in this County. Getting the same ATB percentage as the other units will result in a growing disparity between lower and more highly compensated employees. It is the employees in this group that have the lowest annual salary figures, contribute the largest percentage of their salary to pay for insurance, and have the least ability to restructure their personal budgets in difficult financial times. Some of these families may even be eligible to receive free or reduced price school lunches (I-30).

The County argued that the Union should not be rewarded for going to fact-finding while the Union argued they should not be penalized. This neutral wants to recommend a balanced, reasonable recommendation that neither penalizes, nor rewards, but facilitates settlement, or the groundwork for reaching that settlement.

RECOMMENDATION: Exhibit "B" Maintenance Employees Unit III: Salary Schedule shall be increased by 3.0% across-the-board July 1, 2006 – June 30, 2007 (FY07). Employees eligible to receive an in-grade pay increment will do so pursuant to Article 26 of this Agreement.

UNION: INCREASE Food Service and Laundry from W3 to W4 and increase Lead Laundry from W4 to W5 effective 7-1-06 with movement to the next higher step on the employee's anniversary date.

COUNTY: Current Contract Language

There was competent evidence placed into this record related to specific problems generated by the transfer to and from the food service classification. Administrator Stiles testified to the revolving door of workers coming into food service and then leaving to work in the laundry area given the relative pay and work schedules. She wanted to maintain the trained and quality employees in food service and testified that higher wages for the food service workers would be a potential solution. She indicated no such comparable "transferring out" problem existed for the laundry workers and further that an equivalent change or increase for the laundry workers would only perpetuate the existing problem. Food Service workers would still want to transfer to Laundry for higher pay. The Union argued that both increases were needed bases on equity.

RECOMMENDATION: (Split)

Food Service shall move from W3 to W4 effective 7-1-06 with movement to the next higher step on the employee's anniversary.

Laundry shall continue at Current Contract Language.

EVALUATION PROCEDURES

Article 15. Evaluations

UNION: CHANGE last sentence to read, "Employees may grieve the results of a below-average evaluation."

COUNTY: PERB Negotiability Dispute

Current language gives an employee the right to grieve "the results of a below average evaluation if it results in the loss of a merit increase". It is not unreasonable to expect employees to maintain at least average performance to merit a step increase, especially in cases where the schedule has a relatively significant step increases as in this Contract. The Union expresses concern that separate evaluation forms might be devised by each individual administrator, however, none were presented into the record. If this were done, then a claim of disparate treatment could be made. Moreover, nothing precludes employees from responding in writing to negative actions should they not agree with them and asking the responses be placed in the personnel file.

There is not evidence in this record that Bargaining Unit employees have been disadvantaged by the evaluations or that they have been conducted in an unfair manner. There is no indication that evaluations have been done in an arbitrary or capricious manner. There is no evidence of the number of below average evaluations resulting in

step denials, or how many employees, if any, have been denied step increases in recent years. If the above words sound familiar, as well as applicable to the instant dispute, they are almost verbatim the comments of last year's Fact-finder which were affirmed by the arbitrator. Additionally, this neutral finds the term "below average" would generate more problems than it would solve and to be grievance bait. The issue and arguments are the same and the response is the same.

RECOMMENDATION: Subject to Negotiability Dispute - Current Contract Language

INSURANCE

The County desires to make substantial changes within the insurance language that will impact both the premiums and the plan design. As I have stated on other occasions, the entire area of health insurance with complex and convoluted changes in cost, coverage, and benefit levels are of substantial concern to this neutral. There are many relevant factors that could potentially have a bearing on this insurance issue and the historic relationship of the parties at the bargaining table. While cost, as it relates to premiums, deductibles and out of pocket expense, is certainly one factor in the insurance benefits area, so too is plan design. A "Request for Proposal" (or RFP) or comparative plans and rates and benefit costs would allow the parties and this neutral to perform a more accurate study or return-on-investment in the insurance area. The focus on this hearing seems to be on which party will contribute what sum of money. This neutral would suggest a more-detailed discussion around plan design changes which might impact premium which might impact contributions. The historical example of this would be the addition of a wellness program which at one time lowered premiums as well as helped employees by both stabilizing contributions and adopting a healthier lifestyle. An indication of "we know it will save or cost us money" is not sufficient for this neutral.

Which changes have the greatest impact on the premium? What is the change with the best value for maintaining quality coverage? Is this simply transferring the costs of County to the employees? There is no magic formula for the determination or selection of insurance plans resulting in the costs and benefits. It takes time, work, study, and the making of difficult decisions based on bargaining unit demographics and costs.

Union Exhibit #61 delineates what has happened in collective bargaining concerning insurance changes since the early 1990's when quality insurance benefits were bargained. This gives some indication that changes have been made over the years – most voluntarily by the parties. The County shows the greatly increasing costs (premiums) in recent years (Exhibits INS-2, 4, and 5).

This neutral is relegated to the review the record with its myriad of proposed changes made before him. The record contains much information and many facts; however, some of the corresponding pieces of data and comparable premiums do not agree – perhaps because of years compared or units compared. This neutral also has no way of determining the level of insurance provided in other counties for the premiums or contributions. I find the position of the Union a bit too rigid but exhibiting some movement in the family premium area, while the position of the County is too extreme, seemingly changing every contribution or limit upward.

In looking at the comparables used by the parties, one must be cognizant of the various components – single deductibles, family deductibles, out of pocket maximums for single and family, single and family premiums, the differences between actual and projected, etc. In also looking at the evidence in this record, it is clear that this Unit is not driving

costs upward and other bargaining units are not subsidizing this Unit. (See Union Tab #11, page 5.) Other units pay more, yet other units receive greater average salaries. While providing some guidance in my determination, it is the evidence before me in this record that guides my findings.

Article 16, Insurance, Section 1

UNION: Change to read: Effective July 1, 2006, employees electing single coverage shall contribute twenty-five dollars (\$25.00) and employees electing dependent coverage shall contribute ninety dollars (\$90.00) toward the cost of the monthly premium rate.

COUNTY: Change to read: Effective July 1, 2006, employees electing single coverage shall contribute fifty dollars (\$50.00) and employees electing dependent coverage shall contribute one hundred dollars (\$100.00) toward the cost of the monthly premium rate.

RECOMMENDATION:

Effective July 1, 2006, employees electing single coverage shall contribute forty dollars (\$40.00) and employees electing dependent coverage shall contribute one hundred dollars (\$100.00) toward the cost of the monthly premium rate.

UNION: Current Contract Language

COUNTY: The Employer shall have the exclusive right to select the carrier for such insurance (*without reduction or change in benefits*). The employer agrees to maintain group health insurance for each employee substantially equivalent to that in effect on the effective date of this Agreement.

Equivalent to the earlier term "below-average" generating problems in the evaluation article, the insertion of the term "substantially" at this juncture in the insurance article is both grievance bait and fodder for legalistic conflict.

RECOMMENDATION: Union; Current Contract Language

Preferred Provider Plan Current and Parties Proposed Changes for FY07

Provision	Current	Union	County
Deductible:	\$250 Single	\$250 Single	\$500 Single
	\$500 Family	\$500 Family	\$1000 Family
Co-Pay (per PPO OV):	\$10	\$0	\$20
Co-Insurance: No changes proposed 85% - 15%			
Out of Pocket MAX:	\$750 Single	\$750 Single	\$1000 Single
	\$1500 Family	\$1500 Family	\$2500 Family
Retail Prescriptions:	no deductible		
	20% generic	20% generic	\$20 OPM/fill
	30% formulary	30% formulary	\$40 OPM/fill
	40% non-formulary	40% non-formulary	\$80 OPM/fill
90-day Mail Scripts	---	---	NEW Co-pays
			\$10 generic
			\$30 formulary
			\$60 non-form.

Non-Network Provider Provisions FY07

Provision	Current	Union	County
Deductible:	\$600 Single	\$600 Single	\$1500 Single
	\$1200 Family	\$1200 Family	\$3000 Family

Co-Insurance: No changes proposed 60% - 40%

Out of Pocket MAX:	\$1500 Single	\$1500 Single	\$3000 Single
	\$3000 Family	\$3000 Family	\$6000 Family

Retail Prescriptions: Current Language for both -- Non-preferred pharmacy not covered except in case of emergency. If emergency, it will cover per PPO rates.

This neutral is overwhelmed by number of changes sought by the County above in terms of how such costly and substantive changes would impact not only the costs and premiums for both the County and the Union, but the morale of the employees. While looking at some of the internal comparisons, there are no such comparisons made for external comparability groups. This neutral feels as though many issues were just thrown up regarding this article in the hope that something would get changed. As already mentioned several times, changes must be focused on need, comparables, and financial implications. For most of these issues, that was not accomplished sufficiently. Still in reviewing the record, there is some evidence regarding the office visit co-pays, why it went into contract, and current comparables.

RECOMMENDATIONS: Current Contract Language EXCEPT Employee Co-pay for Office Visits changed from \$10 to \$15.

UNION: Current Contract Language

COUNTY: DELETE following plan provisions;

#No separate drug deductible.

#Drug co-payments are included in the employee's out of pocket maximum with their medical expenses.

No specific evidence was provided as to the reason and cost implications.

RECOMMENDATION: Union; Current Contract Language

UNION: ADD NEW PROVISION FOR HEALTH SAVINGS ACCOUNT ALTERNATIVES

COUNTY: Current Contract Language

This proposed change lacks ANY internal or external comparability and would truly be considered a breakthrough issue. Given all the other insurance issues on the table and at bar, there is no way this neutral would recommend such a change at this time.

RECOMMENDATION: COUNTY; Current Contract Language – No New Provision

Article 16, Insurance, Section 3

UNION: Current Contract Language

COUNTY: CHANGE last sentence to read: The Employer shall maintain the exclusive right to select the carrier for such insurance without substantial reduction or substantial change in benefits.

For the same reasons already discussed above regarding the term "substantial", this fact-finder recommends no change.

RECOMMENDATION: Union; Current Contract Language

Article 16, Insurance, Section 5, Pre-Tax Reimbursement Account

UNION: Current Contract Language

COUNTY: All employees (*eligible to participate in the health insurance program*) may participate in the Employer's flexible spending plan which, under IRS regulations, allows employees to pay for health care and dependent care from pre-tax dollars. (Delete words in parentheses.)

There is little in the record regarding this issue, however, it is reasonable and equitable to open this door to all employees. It is a decision of each employee to then participate or not participate based on several personal factors.

RECOMMENDATION: County; All employees may participate in the Employer's flexible spending plan which, under IRS regulations, allows employees to pay for health care and dependent care from pre-tax dollars.

Article 17, Mileage Reimbursement

UNION: Current Contract Language

COUNTY: File Negotiability Dispute

RECOMMENDATION: Subject to PERB Ruling; UNION – Current Contract Language

VACATION

Article 20, Vacation, Section 5, Rate of Pay

UNION: Current Contract Language

COUNTY: CHANGE to read: Vacation will be at the employee's normal pay for the day or week for which he would have been regularly scheduled to work, less any shift differential.

This change impacts language trade-offs rooted in the bargaining history of the parties.

No costs, cost savings, accounting of vacation days, or how already earned vacation would be treated was provided. More evidence is needed before this neutral would accept the County's change.

RECOMMENDATION: Union; Current Contract Language

CASUAL DAYS

Article 24, Casual Days, Section 4, Approval

UNION: Current Contract Language

COUNTY: ADD sentence: Emergency shall be defined as a sudden, unforeseen, and unexpected happening or occurrence requiring the employee's attendance.

The County indicates this clarifies the section and adds definition for emergency. No problems were described or motive behind the change. Clarifications, as grammar, should be done at the negotiation table of the parties.

RECOMMENDATION: Union; Current Contract Language

LONGEVITY

Article 25, Longevity, Sections 1, 2, and 3

UNION: Current Contract Language

COUNTY: Filed Negotiability Dispute

RECOMMENDATION: Subject to PERB; UNION – Current Contract Language

SAFETY COMMITTEE

Article 27, Section 1, Safety Committee

UNION: Current Contract Language

COUNTY: Filed Negotiability Dispute

RECOMMENDATION: Subject to PERB; UNION – Current Contract Language

LABOR-MANAGEMENT COMMITTEE

Article 27, Section 2, Labor-Management Committee

UNION: Current Contract Language

COUNTY: Filed Negotiability Dispute

RECOMMENDATION: Subject to PERB; UNION – Current Contract Language

OTHER CONTRACTUAL ISSUES

This neutral believes that all issues presented to him have been directly analyzed and recommendations made regarding them. If there is any remaining issue that is unclear or that might have been not directly addressed, my intention and finding is to have the language of the current collective agreement continue.

SUMMARY

This neutral finally comes to the end of recommendations to the parties that will hopefully settle the dispute between them. If not, perhaps it will serve as a basis for seeking that elusive voluntary agreement to establish some degree of harmony between the Union and the County. Both parties tend to believe that they are 100% correct in their positions and both are incorrect.

Advocates for both the County and the Union have many years of quality bargaining experience and knowledge and did credible work as advocates at this hearing. I do believe both parties would be better served to set aside personalities and refocus on the true issues facing them. It is my honest hope that these findings will move the parties that direction and toward a voluntary settlement.

Dated this 10th day of February, 2006
Dennis Krueger
Dennis Krueger, Fact-finder

APPENDIX A – “Union’s Position for Fact-finding”

APPENDIX B – “County’s Fact-finding Position

APPENDIX C – “Petition for Resolution of Negotiability Dispute”

JOINT EXHIBIT #1 – Collective Bargaining Agreement

between

Black Hawk County and PPME Local 2003

CERTIFICATE OF SERVICE

I certify that on this 10th day of February, 2006, I served the foregoing "Report of the Fact-finder and Fact-finder's Recommendations" upon each of the parties to this matter by mailing a copy to them at their respective addresses as shown below:

Gary Ray

4403 First Avenue SE, Suite 407

Cedar Rapids, IA 52402

Joe Rasmussen

P.O. Box 69

Alburnett, IA 52202

I further certify that on this 10th day of February, 2006, I have submitted this "Report of the Fact-finder and Fact-finder's Recommendations" for filing by personally delivering it to the Iowa Public Employment Relations Board, 510 East 12th Street, Suite 1B, Des Moines, Iowa 50319-0203.

Dated this 10th day of February, 2006

Dennis A. Krueger
Dennis A. Krueger, Fact-Finder
1108 6th Street
West Des Moines, Iowa 50265

UNION POSITIONS FOR FACT-FINDING
BLACK HAWK COUNTY UNIT 3
JANUARY 27, 2006

Public Professional and Maintenance Employees, IUPAT Local 2003 of District Council 81, proposes no changes in the 2005 – 2006 collective bargaining agreement for a one year successor agreement from July 1, 2006 through June 30, 2007, with the exception of the following issues:

ISSUE #1 – HOURS OF WORK

Article 9, Hours of Work and Overtime

CHANGE the title of Section 1 to read, Work Week, and CHANGE the section to read by combining Section 1 with Section 7, Work Week Defined:

The normal work week for a full-time employee shall be thirty-two hours or more with all benefits. The normal work week for a part-time employee shall be less than thirty-two hours with pro-rated vacation and insurance benefits. Part-time employees working less than fifteen hours per week receive no benefits. The work week shall be from 12:01 a.m. Sunday to 12:00 midnight Saturday.

REPLACE Section 7, Work Week Defined, of Article 9, with the following:

Section 7, Hours of Work

The hours of work and rotation of days of work shall be as follows for full-time employees in the job classifications listed below:

Building Maintenance Mechanic - Courthouse

6:30 a.m. – 3:00 p.m. with 30 minute unpaid lunch - Monday through Friday

Property Maintenance Assistant - Courthouse

6:30 a.m. – 3:00 p.m. with 30 minute unpaid lunch - Monday through Friday

Building Cleaner – Courthouse

8:00 a.m. – 5:00 p.m. with 60 minute unpaid lunch – Monday through Friday

Building Maintenance Mechanic – Country View

6:00 a.m. – 2:00 p.m. with 30 minute paid lunch - Monday through Friday

Building Maintenance Assistant – Country View

7:00 a.m. – 3:00 p.m. with 30 minute paid lunch – Monday through Friday

Driver – Country View

7:00 a.m. – 3:00 p.m. with 30 minute paid lunch – Monday through Friday

Building Cleaner and Lead Building Cleaner – Country View

First Shift: 6:00 a.m. – 2:00 p.m. with 30 minute paid lunch

7 a.m. – 3 p.m. with 30 minute paid lunch

1:00 p.m. – 9:00 p.m. with 30 minute paid lunch

Rotation of five 8-hour shifts per work week with 2 weekends (Saturday and Sunday) off followed by 1 weekend on-duty.

Laundry Worker and Lead Laundry Worker – Country View

First Shift: 6:00 a.m. – 2:00 p.m.

7:00 a.m. – 3:00 p.m.

9:00 a.m. – 5:00 p.m.

Second Shift: 2:30 p.m. – 10:30 p.m.

Third Shift: 4:00 a.m. – 12:00 noon

All shifts have a 30 minute paid lunch break, and a rotation of five 8-hour shifts per work week with every other weekend (Saturday and Sunday) off.

Cook – Country View

4:30 a.m. – 12:30 p.m. with 30 minute paid lunch

11:30 a.m. - 7:30 p.m. with 30 minute paid lunch

Rotation of 40 hours per week with every other weekend (Saturday and Sunday) off and either a Friday and Tuesday off or Thursday and Monday off

Food Service Worker – Country View

5:00 a.m. – 1:00 p.m. with 30 minute paid lunch

6:00 a.m. – 2:00 p.m. with 30 minute paid lunch

11:30 a.m. – 7:30 p.m. with 30 minute paid lunch

Rotation of 40 hours per week with every other weekend (Saturday and Sunday) off and either a Friday and Tuesday off or Thursday and Monday off or Friday and Wednesday off or Monday and Wednesday off

ISSUE #2 - OVERTIME

Article 9, Hours of Work and Overtime

ADD to the third paragraph of Section 6, Overtime, the following:

Any overtime shall first be offered as voluntary overtime to employees in that job classification on a last worked-last selected basis. If there is an insufficient number of volunteers, the Employer shall select staff for involuntary overtime on a rotational basis beginning with the least senior employee of the effected shift.

ISSUE #3 - SUPPLEMENTAL PAY

Article 9, Hours of Work and Overtime

INCREASE in Section 9, Standby and On-Call Time, pager compensation from fifty dollars (\$50) to seventy-five dollars (\$75).

ISSUE #4 - LEAVES OF ABSENCE

ADD a new article entitled Union Leave to read as follows:

Employees designated as stewards or bargaining team members by the Union shall receive a paid leave of absence as Union Leave for the employees' hours of work necessary to attend joint collective bargaining negotiations, mediations, fact-findings, interest arbitrations, or steps of the grievance procedure with the Employer.

ISSUE #5 - TRANSFERS

Article 13, Transfers

ADD a Section 3 entitled Temporary Transfer Pay to read as follows:

An employee temporarily transferred to a lower pay grade shall continue to receive their normal rate of pay. An employee temporarily transferred to perform the duties of a higher pay grade job classification shall receive the higher rate of pay for all hours of work performed in the higher job classification.

ISSUE #6 – EVALUATION PROCEDURES

Article 15, Evaluations

CHANGE the last sentence to read:

Employees may grieve the results of a below-average evaluation.

ISSUE #7 – WAGES

Article 14, Job Classifications and Wages

CHANGE Section 2, Hourly Wage Rates, to read:

Reference is made here to Exhibit B, Labor and Trades Salary Schedule for the 2007 fiscal year which shall become effective on July 1, 2006, and shall remain in effect during the term of this Agreement. The 2007 fiscal year schedule shall be an increase of six percent (6%) over the previous year's fiscal year salary schedule. In addition, employees eligible to receive an in-grade pay increment shall do so pursuant to Article 26 of this Agreement.

INCREASE food service and laundry from W3 to W4 and increase lead laundry from W4 to W5 effective 7-1-06 with movement to the next higher step on the employee's anniversary date per Article 26.

ISSUE #8 – INSURANCE

Article 16, Insurance

CHANGE the second sentence of Section 1 to read:

Effective July 1, 2006, employees electing single coverage shall contribute twenty-five dollars (\$25.00) and employees electing dependent coverage shall contribute ninety dollars (\$90.00) toward the cost of the monthly premium rate.

DELETE from Section 1 the Plan Provision of:

Co-Payment \$10 (per PPO office visit)

ADD to Section 1 the following:

Health Savings Account Alternative

As an alternative to enrollment in the above Preferred Provider Plan (PPO), the Employer will offer all insurance-eligible employees a choice of enrollment in a Wellmark Blue Cross-Blue Shield Blue Priority Health Savings Account (HSA) plan. The HSA plan will offer the minimum-allowable deductibles under federal regulations, and out-of-pocket maximums which are twice the deductible amounts for single and family coverage. If the employee selects single coverage in the HSA, the Employer will pay the full single premium for such coverage, and any difference between the full single premium of the PPO and the single premium of the HSA shall be paid to the employee's health savings account. If the employee selects family coverage in the HSA, the Employer will pay the full family premium for such coverage, and any difference between the full family premium of the PPO and the family premium of the HSA shall be paid to the employee's health savings account. Employees may make voluntary payments to their health savings account to the maximum allowable under federal regulations by the use of payroll deduction.

PERMISSIVE SUBJECTS OF BARGAINING

PPME Local 2003 is opposed to the unilateral removal by the Employer of any permissive language in the current collective bargaining agreement.

UNIT III

MAINTENANCE EMPLOYEES

BLACK HAWK COUNTY, IOWA

COUNTY'S FACT FINDING POSITION

Presented to:

*PUBLIC, PROFESSIONAL & MAINTENANCE
EMPLOYEES*

*LOCAL UNION 2003,
MAINTENANCE EMPLOYEES,, UNIT III*

January 27, 2006

UNIT III

FACT-FINDING POSITION FOR COUNTY

All contract articles and language current contract except as stated within this document.

ARTICLE 6, SENIORITY (page 3) – Change as follows:

Section 2, Probationary Period: (page 4)

A new employee shall serve a probationary period of ~~ninety (90) continuous calendar days~~ **six (6) months, but benefits will be available after the first ninety (90) continuous calendar days.** Upon completion of the probationary period, the employee shall be placed on the seniority list, and his seniority shall be determined from his date of employment. Employees may be terminated for any reason during the probationary period without recourse to the grievance procedure.

ARTICLE 7, LEAVES OF ABSENCE (page 7) – Change as follows:

Section 1: Current contract except change the first sentence to read:

Upon giving reasons satisfactory to the Employer, an employee may be granted a leave of absence without pay for a period ~~or periods, not to exceed one (1) continuous year; including unpaid FMLA leaves of time mutually agreeable~~ **between the employee and the Department Head.**

Section 6: Federal Family and Medical Leave Act: (page 8) – Change second paragraph to read:

An employee who requests and is granted leave of absence pursuant to the 1993 Federal Family and Medical Leave Act (hereinafter called FMLA) ~~may~~ **shall** use accrued paid leave (i.e., sick leave, vacation, compensatory time, personal leave) **at the same time as the FMLA leave is used.** ~~that the employee had accumulated prior to the start of the leave of absence. The employee shall designate in writing to the Employer the type and amount of paid leave to be used. The Employer may not designate leave taken pursuant to the Agreement which was not requested under the FMLA as FMLA leave.~~

ARTICLE 9, HOURS OF WORK AND OVERTIME (page 8) – Change as follows:

Section 3, Shift Differential: Current contract except add new paragraph:

An employee who works their shift or another shift due to voluntary or involuntary overtime shall be paid the appropriate shift differential for each shift that qualifies for shift differential payment as defined in this article. Shift differential shall only be paid on straight time and overtime hours actually worked. Paid leave time shall not be subject to shift differential.

Section 6, Overtime: Overtime shall be paid for at the rate of one and one-half (1 ½) times the employee's straight-time hourly rate for all hours worked in excess of forty (40) hours per week. ~~eight (8) per day or on the employee's regularly scheduled day off. To be eligible for time and one half (1 1/2) when an employee agrees to work on the employee's regularly scheduled day off.~~ Any paid leave, including sick leave shall not count toward calculating overtime hours. ~~the employee shall not have utilized sick leave during the employee's work week.~~ Overtime shall not be paid more than once for the same hours worked. The work week shall be from 12:01 a.m. Sunday to 12:00 midnight Saturday. Employees required to work overtime shall be notified at least twenty-four (24) hours in advance of the scheduled work, except in case of emergency.

ARTICLE 10, **SICK LEAVE** (pages 10 – 12)

Section 9, Date of Employment (page 12) – Change as follows:

~~For the purpose of this chapter, a~~ An employee who begins his employment on or before the fifteenth day of the month will be credited with sick leave for the entire month. An employee who begins his employment after the fifteenth (15th) day of the month will begin to accrue sick leave on the first day of the month following his employment.

ARTICLE 14, **JOB CLASSIFICATIONS AND STRAIGHT-TIME HOURLY WAGE RATES** (pages 14 – 15):

Section 2, Hourly Wage Rates (page 14): Change as follows:

In-grade pay increments plus across the board wage increase of two percent (2%) on Salary Schedule (Exhibit B).

ARTICLE 16, **INSURANCE** (pages 15 – 17) – Change as follows:

Section 1: (page 15) Permanent full-time employees and dependents shall be provided the Employer's Preferred Provider group health and dental insurance upon completion of their probationary period in Article 6, Section 2. Effective July 1, 2005 2006, employees electing single coverage shall contribute ~~twenty five dollars (\$25.00)~~ **Fifty Dollars (\$50.00)** and employees electing dependent coverage shall contribute ~~seventy five dollars (\$75.00)~~ **One Hundred Dollars (\$100.00)** toward the cost of the monthly premium rate. Where there are two (2) married employees employed by the county, they may take one (1) family plan or two (2) single plans. When two (2) single plans are taken, the employee will only be required to pay the monthly employee contribution for one (1) single plan. The Employer shall deduct the monthly contribution by dividing it as equally as possible between the employee's first and second paychecks for each month. Health insurance contributions shall be applied to the month in which they are made. The Employer

shall have the exclusive right to select the carrier for such insurance. ~~without reduction or change in benefits.~~ The Employer agrees to maintain group health insurance for each employee **substantially** equivalent to that in effect on the effective date of this Agreement. The Plan provisions are:

Preferred Provider Plan (pages 17 – 18)

		<u>FY07</u>
Deductible:	\$250 Single	\$ 500
	\$500 Family	\$1,000
Co-Payment:	\$10 (per PPO Office Visit)	\$ 20
Co-Insurance:		85% - 15%
Out-of-Pocket Maximum:	\$ 750 Single	\$1,000
	\$1,500 Family	\$2,500
Retail Prescription Drugs: (preferred pharmacy)	(no deductible)	20% generic, \$20 out-of-pocket maximum per fill; 30% formulary, \$40 out-of-pocket maximum per fill; 40% non-formulary, \$80 out-of-pocket maximum per fill.
90-Day Mail Order Prescription:		Co-pay \$10 generic Co-pay \$30 formulary Co-pay \$60 non-formulary
Lifetime Benefit Maximum:		\$1,000,000

Non-Network Provider Provisions FY07

Deductible	\$ 600	\$1,500 Single
	\$1,200	\$3,000 Family
Co-Insurance		60% - 40%
Non-Preferred Pharmacy		No coverage except in case of emergency. If emergency, will cover per PPO rates.
Out-of-Pocket Maximum	\$1,500	\$3,000 Single
	\$3,000	\$6,000 Family

*The Non-network Provider provisions become effective when an employee elects to utilize a care provider who is not a network provider participant.

The Plan also includes the following provisions:

- Pre-admission certification
- Common Occurrence Deductible: When more than one family member is involved in the same accident, only one per member deductible need be satisfied.
- Normal newborn care
- Well baby care to twenty-four months
- One routine physical per member calendar years
- Dependent child coverage to age nineteen (19) or to age twenty-five (25) if a full-time college student
- ~~— No separate drug deductible~~
- ~~— Drug co-payments are included in the employee's out-of-pocket maximum with their medical expenses~~

Section 3 – Change the last sentence as follows:

The Employer agrees to provide a dental insurance plan for each employee and dependent. The Employer shall maintain the exclusive right to select the carrier for such insurance without **substantial** reduction or **substantial** change in benefits.

Section 5: Pre-Tax Reimbursement Account: (page 17) – Change to read:

All employees ~~eligible to participate in the health insurance program~~ may participate in the Employee's flexible spending plan which, under IRS regulations, allows employees to pay for health care and dependent care from pre-tax dollars.

ARTICLE 20, VACATION (page 18 - 19)

Section 5, Rate of Pay (page 19) – Change to read:

Vacation pay will be at the employee's normal pay for the day or week for which he would have been regularly scheduled to work, **less any shift differential.**

ARTICLE 24, CASUAL DAYS: (pages 20 – 21)

Section 4, Approval (page 20) – Change to read:

Employees must obtain approval from their department head or his designated representative at least twenty-four (24) hours prior to the casual day requested, except in emergencies, to receive casual day request. **Emergency shall be**

defined as a sudden, unforeseen, and unexpected happening or occurrence requiring the employee's attendance.

EXHIBIT B (page 25) – In-grade pay increments for 2006-2007 contract plus a 2% ATB increase effective at the beginning of the pay period closest to July 1, 2006.

PERMISSIVE LANGUAGE

Black Hawk County proposes the deletion of the following language from the collective bargaining agreement based on the fact that the language is an illegal and/or permissive subject of bargaining and therefore the County is not required to bargain over the language and can choose to delete the language which option the County is electing. A Negotiability Dispute is on file with the Public Employment Relations Board (copy attached.)

ARTICLE 4, GRIEVANCE PROCEDURE AND ARBITRATION (pages 1 – 2) – Delete the sentence from the first paragraph as indicated:

Step 3 (page 2) – Change to read:

If the department head's answer in Step 2 fails to resolve the grievance, the Union and/or the aggrieved employee may refer the grievance to the Human Resources Director within three (3) working days of the receipt of the Step 2 answer. ~~The Human Resources Director may designate a representative for the bargaining unit to conduct hearings on the grievances which do not involve termination or loss of pay issues.~~ Following a meeting with the aggrieved employee and/or the Union, the Human Resources Director shall answer the grievance in writing within seven (7) working days.

ARTICLE 5, MEDIATION AND IMPASSE PROCEDURES (page 3) – Delete, permissive.

ARTICLE 6, SENIORITY (page 6)

Section 6, Loss of Seniority: (page 6)

An employee shall lose his seniority, and the employment relationship shall be broken and terminated as follows:

B. Employee is discharged for proper cause – Delete, permissive.

ARTICLE 10, SICK LEAVE: (page 10):

Section 3, Procedures of Sick Leave Usage – Delete, permissive.

Section 6, Conversion (page 11) – Delete, permissive.

Section 7, Sick Leave Bonus (page 11) – Delete, permissive.

ARTICLE 15, EVALUATIONS (page 15) – Delete, permissive.

ARTICLE 17, MILEAGE REIMBURSEMENT (page 17) – Delete, permissive.

ARTICLE 24, CASUAL DAYS: (pages 20 – 21)

Section 3, Probationary Employees (page 20) – Delete, permissive.

ARTICLE 25, LONGEVITY: (page 21)

Section 1, Eligibility (page 21) – Delete, permissive.

Section 2, Payment (page 21) – Delete, permissive.

Section 3, Employees on Leave or Lay-Off (page 21) – Delete, permissive.

ARTICLE 27, JOINT COMMITTEES: (page 22)

Section 1, Safety Committee (page 22) – Delete, permissive.

Section 2, Labor-Management Committee (page 22) – Delete, permissive.

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF
BLACK HAWK COUNTY

CASE NO. 7220

Public Employer/Petitioner,

PETITION FOR RESOLUTION
OF NEGOTIABILITY DISPUTE

vs.

PUBLIC, PROFESSIONAL &
MAINTENANCE EMPLOYEES
LOCAL UNION 2003, MAINTENANCE
EMPLOYEES, UNIT III

UNIT III

Employee Organization/
Respondent.

Custodial

COMES NOW, Black Hawk County and states in support of this Petition for Resolution of Negotiability Dispute the following:

1. Black Hawk County (hereinafter referred to as County) is a Public Employer as defined by Section 3.1 of the Public Employment Relations Act.
2. The Public Professional & Maintenance Employees, Local Union 2003, Maintenance Employees, Unit III (hereinafter referred to as Union) is an Employee Organization as defined by Section 3.4 of the Public Employment Relations Act.
3. The Union has been certified by the Public Employment Relations Board as the sole exclusive Bargaining Agent for certain employees of the Black Hawk County, as defined by the Bargaining Unit description on file with the Public Employment Relations Board.
4. The County and the Union have a Master Contract which is currently in effect.

5. The County and the Union are involved in negotiating a contract for the 2006-2007 year.

6. A Negotiability Dispute has arisen between the County and the Union over whether certain of the County's proposals set forth below constitute mandatory, permissive or illegal subjects of bargaining.

7. The Union has proposed the following provisions be part of the 2006-2007 contract and/or added to the 2006-2007 contract. It is the position of the County that these proposals constitute permissive or illegal subjects of bargaining and that the County is not required to bargain over these proposals nor required to include them as part of the contract between the County and the Union for 2006-2007. The proposals in question are set forth below:

ARTICLE 4 **GRIEVANCE PROCEDURE AND ARBITRATION**

The parties agree that an orderly and expeditious resolution of grievances is desirable. All matters of dispute that may arise between the Employer and an employee or employees regarding the violation, application, or interpretation of the expressed provisions of this Agreement shall be adjusted in accordance with the following procedure:

Step 3: If the department head's answer in Step 2 fails to resolve the grievance, the Union and/or the aggrieved employee may refer the grievance to the Human Resources Director within three (3) working days of the receipt of the Step 2 answer. ~~The Human Resources Director may designate a representative for the bargaining unit to conduct hearings on the grievances which do not involve termination or loss of pay issues.~~ Following a meeting with the aggrieved employee and/or the Union, the Human Resources Director shall answer the grievance in writing within seven (7) working days.

ARTICLE 5 **MEDIATION AND IMPASSE PROCEDURES**

The Employer and the Union agree to comply with Chapter 20 of the Code of Iowa on the impasse procedures.

ARTICLE 6

SENIORITY

Section 6, Loss of Seniority:

An employee shall lose his seniority, and the employment relationship shall be broken and terminated as follows:

- B. Employee is discharged for proper cause.

ARTICLE 10

SICK LEAVE

Section 3, Procedures of Sick Leave Usage: In lieu of the step system or any other no fault attendance/absenteeism policy, whenever an employee elects to use earned sick leave for the reasons specified in Section 2 (except for items E and F) of this Article, the employee's earned sick leave account will be charged sick leave according to the procedure stated below. Use of sick leave for worker compensation or Federal Family and Medical Leave purposes are exempt from this procedure.

- A. If the requested sick leave is one of the first six (6) occurrences during the fiscal year, the employee will be paid sick leave for each consecutive day of the occurrence as long as the employee had sufficient sick leave in his account. A sick leave occurrence is defined as utilization of sick leave for scheduled work time. A single occurrence may include more than one work day as long as the days off are consecutive scheduled days of work.
- B. If the requested sick leave exceeds the sixth (6th) occurrence, the employee will be paid for the occurrence beginning with the second consecutive day of occurrence. The first day of the occurrence shall be unpaid. Casual days and/or accumulated vacation may not be used for the first day of the occurrence.
- C. Beginning with the seventh occurrence:
 - 1. The first day of sick leave is always unpaid unless the employee or the employee's spouse or child is admitted for either inpatient or outpatient care as a patient to the hospital. The Employer reserves the right to verify hospitalization.
 - 2. The second day and all subsequent days may be paid or unpaid as determined by the Employer. Payment of these sick leave days shall not be denied in a manner that is unreasonable, arbitrary, or capricious.

- D. An employee who believes they have been unjustly denied sick leave pay or disciplined for use of sick leave may grieve pursuant to an expedited grievance procedure. The grievance shall begin by the employee or the Union meeting with the Human Resources Director within three (3) working days of the decision by the Employer to deny sick leave pay or discipline the employee, and the Human Resources Director will issue an answer to the grievance at the meeting. If the Human Resources Director's response fails to resolve the grievance, the grievance may be referred in writing to arbitration within one (1) working day of the meeting. If the grievance is referred to arbitration, the arbitration will be conducted by Jim McClimon, an administrative law judge of the Iowa Public Employment Relations Board, and that decision shall be final and binding. The standard of review used by the arbitrator shall be just cause. Arbitration will be conducted within seven (7) working days of the arbitrator receiving written notice unless both parties and the arbitrator agree to waive the meeting date. If Mr. McClimon is unable to conduct the arbitration, another administrative law judge mutually agreed upon by both the Employer and the Union will conduct the arbitration. Any expenses for the arbitration shall be paid by the party incurring such expenses. The parties agree to equally divide the actual cost to the Iowa PERB for each arbitration hearing. There shall be no additional charge if more than one case is heard at one hearing.
- E. Employees hired after July 1 and after completing the probationary period shall have their first six (6) paid occurrences pro-rated at the rate of two (2) per quarter starting on the first day of a full quarter. This pro-rating is effective according to the first day of a quarter that the employee is at work either in a probationary or permanent status.

Section 6, Conversion: Employees with 960 hours of sick leave shall convert an additional twenty (20) hours of sick leave to eight (8) hours of casual leave. These casual hours may be carried over for up to one (1) year. Any accrued sick leave casual day(s) shall be forfeited upon termination.

Section 7, Sick Leave Bonus: Regular full-time employees who do not use any sick leave for each quarterly period of the fiscal year (i.e. July 1 through September 30, October 1 through December 31, etc.) shall accrue four (4) hours of casual time. The accrued casual time must be used within one (1) year from when the hours were earned.

ARTICLE 15

EVALUATIONS

The Human Resources Department shall develop and administer a performance evaluation instrument based upon appropriate job descriptions. Probationary employees shall be evaluated upon completion of the probationary period. Permanent employees shall be evaluated at least annually upon their bargaining unit seniority date. The result of the evaluation shall be discussed with the employee within thirty (30) calendar days of the employee's bargaining unit seniority date. Evaluations shall include input from a person who has regular and continuing contact with the employee.

The employees shall sign the evaluation form after discussion of its contents with the supervisor and the opportunity to write a rebuttal which may be attached to the evaluation form. Employees may grieve the results of a below-average evaluation if it results in the loss of a merit increase.

ARTICLE 17

MILEAGE REIMBURSEMENT

Mileage will be paid at the maximum allowed by the Code of Iowa for all employer-required use of employee's vehicles.

ARTICLE 24

CASUAL DAYS

Section 3, Probationary Employees: Probationary employees shall be granted one (1) casual day October 1; one (1) casual day January 1; one (1) casual day April 1; and one (1) casual day July 1, if they are employed by the Employer on that date. Employees are not eligible for casual day benefits during the first ninety (90) days of employment. However, upon completion of probation, employees shall be credited with accrued casual days as of the date of employment.

ARTICLE 25

LONGEVITY

Section 1, Eligibility: Each full-time bargaining unit employee shall be eligible for longevity pay based upon consecutive years of service in Black Hawk County as follows:

- A. Four (4) years, but less than eight (8) years - \$45.00 per month

- B. Eight (8) years, but less than twelve (12) years - \$55.00 per month
- C. Twelve (12) years, but less than sixteen (16) years - \$65.00 per month
- D. Sixteen (16) years, but less than twenty (20) years - \$75.00 per month
- E. Twenty (20) years or more - \$85.00 per month

Section 2, Payment: Payment for longevity shall be divided between the first two pay periods of each month. An employee who on July 1, 1984, does not qualify for longevity pay will receive his first longevity payment on the first pay period of the month following his anniversary date of employment.

Section 3, Employees on Leave or Lay-Off: An employee who receives no wages during a pay period shall not receive longevity pay for the pay period.

ARTICLE 27.

JOINT COMMITTEES


Section 1, Safety Committee: The Employer recognizes its responsibility to maintain safe working conditions for its employees. It is the responsibility of the employees to follow safety rules and regulations. A safety committee composed of three (3) bargaining unit members selected by the Union and up to three (3) representatives of the Employer shall meet at least every three (3) months to evaluate bargaining unit safety and make recommendation regarding safety issues to the Employer.

Section 2, Labor-Management Committee: There shall be a Labor-Management Committee composed of three (3) bargaining unit union members selected by the Union, the Business Representative, and representatives of the Employer as it so chooses. Regular meetings of the Committee shall be held at least once every two months at a mutually convenient time. If held during working hours, employees will be paid for time falling within their normal working time. Each party shall submit a written agenda to the other, not less than three (3) working days prior to each meeting, setting forth the items it wishes to discuss at the meeting. The purpose of the meetings is to afford both parties a forum in which to communicate on items of interest to either party. If mutually agreed by the parties, the regularly scheduled meetings may be waived, or there may be additional scheduled meetings.

WHEREFORE, Black Hawk County respectfully requests that the Public Employment Relations Board expedite a decision on this negotiability dispute, schedule a time for oral argument

and submission of briefs, and therefore determine that the County's proposals as set forth in the above paragraphs constitute permissive and/or illegal subjects of bargaining.

Dated this 23rd day of January, 2006.



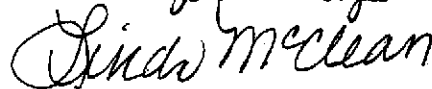
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ATTORNEY FOR EMPLOYER

Cc: Joe Rasmussen, Business Representative
Black Hawk County Board of Supervisors
June Watkins, Director of Human Resources

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause by enclosing same in an envelope addressed to each such attorney at his/her respective address as disclosed by the pleadings of record herein, with postage fully paid by depositing said envelope in a United States Post Office depository in Cedar Rapids, Linn County, Iowa on the 23rd day of January, A.D., 2006



Linda McLean